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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,891	09/28/2001	John S. Hendricks	SEDN/3698D7	2109

56015 7590 06/12/2007  
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EXAMINER
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SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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06/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/964,891

Applicant(s)

HENDRICKS, JOHN S.

Examiner

James Sheleheda

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/02/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 04/09/07 have been fully considered but they are not persuasive.

a. Applicant argues that Goldstein fails to disclose means to demultiplex video, audio, graphics and text.

In response, applicant is directed to Fig. 14 of Goldstein, clearly showing wherein a cable input is received at 136, and then separated into its constituent parts of video, graphics, text and audio (video/audio to 149 and graphics/text to 146; see column 16, line 38-column 17, line 22).

Art Unit: 2623

- b. Applicant argues that Seth-Smith fails to disclose means to demultiplex video, audio, graphics and text.

In response, as indicated above, Goldstein and Banker, and not Set-Smith, were both relied upon and disclose receiving and demultiplexing a signal containing video, audio, graphics and text.

Furthermore, it is noted that Seth-Smith specifically discloses receiving and separating a signal containing video, audio and embedded data (column 7, lines 30-68). Thus, Seth-Smith clearly does not teach away from demultiplexing video, audio, graphics and text as applicant suggests.

In response to applicant's argument that Seth-Smith's signal is *never disassembled*, it is noted that the Seth-Smith clearly shows wherein the received signal has been separated (see Fig. 17; column 23, lines 37-52), wherein audio is provided to audio descrambler, 158, while video is provided to video descrambler, 162, and VBI data is provided to microprocessor, 122. Thus, applicant's arguments are not persuasive.

- c. Applicant argues that Seth-Smith fails to disclose means to separately access the audio while a program extracted from the television signal is being displayed.

In response, applicant is again directed to Fig. 17, of Seth Smith, where it is clearly seen that the audio signals are separately accessed by descrambler, 158, while the video program is accessed by video descrambler, 162. This audio

is selected and accessed separate from the displayed video program, as multiple selectable audio channels are provided alongside the video program (column 7, lines 45-67 and column 14, lines 5-18).

d. Applicant argues that Seth-Smith fails to disclose wherein the audio is “independent” of the program.

In response, Seth-Smith discloses wherein the audio channels may contain audio content related to the program (such as alternative languages; column 7, lines 45-65) or wherein the audio content may be *independent* of the program (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64). Thus, Seth-Smith meets the current claim limitations, as he clearly discloses wherein the audio content provided with the video program may consist of additional independent pay-per-listen audio content.

e. Applicant argues that Banker fails to disclose means to demultiplex video, audio, graphics and text.

In response, Banker specifically discloses a system containing circuitry, 304, (Fig. 3), which receives and separate a cable television signal containing video, audio, graphics and text (Fig. 3; column 11, lines 2-30), thus meeting the claim limitations. While applicant argues that “demodulating and descrambling” circuitry” are not equivalent to a demultiplexer, it is noted that circuit specifically

performs the functionality of a demultiplexer, as it is separating the received signal into video, audio, graphics and text. While '*demodulating*' may not be equivalent to *demultiplexing*, Banker clearly shows wherein the circuitry is not limited to demodulating.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support in the specification for "means to demultiplex video, audio, graphics and text" and "means to separately access the audio while a program extract from the television signal is being displayed, wherein the audio is *independent* from the television signal and the audio is accessed simultaneously while the television signal is being displayed" as recited in claims 1, 8, 22 and 23. While the specification discloses a "digital radio tuner" which will allow access to digital radio channels (page 36, lines 7-12, which applicant refers to in regards to the meaning of the term 'independent'; see applicant's response filed 04/9/07, page 9, lines 20-30), the specification is silent as to

any particular means to de-multiplex the *video, audio, graphics and text*, as no specific means has been indicated as to how the digital radio channel audio would be transmitted/received and processed at the set top terminal.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (5,410,326) (of record) in view of Seth-Smith et al. (Seth-Smith) (4,890,321) (of record).

As to claim 1, while Goldstein discloses a set top terminal for generating an interactive electronic program guide for display on a television for use with a television delivery system (column 33, lines 3-34), the terminal comprising:

means for retrieving information about a subscriber (column 14, lines 51-55);

means for receiving a television signal (column 16, lines 38-45);

means for extracting individual programs from the television signal (column 17, lines 20-22);

means to demultiplex video, audio, graphics and text (136; see Fig. 14; column 16, line 38-column 19, line 12);

Art Unit: 2623

means for generating an electronic program guide for controlling display of content on a television screen (column 17, lines 16-19), the guide comprising:

- a home menu (master menu; column 34, lines 1-9);

- a plurality of major menus displayed as menu options on the home menu (column 34, lines 6-19);

- a plurality of sub-menus displayed as menu options on the plurality of major menus (column 34, line 67-column 35, line 59); and

- a plurality of during programming menus enacted after selection of a program (additional information icons displayed during a program; column 14, lines 3-20);

wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (the display comprises overlaid icons onto the video signal; column 14, lines 3-20); and

means for receiving the selection signals from a user input (column 17, lines 43-50), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio.

In an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for



Art Unit: 2623

accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

As to claim 2, Goldstein and Seth-Smith disclose wherein the plurality of menus of the guide further comprises:

Art Unit: 2623

an introductory menu that is displayed upon beginning use of the guide (local menu to perform initialization; see Goldstein at column 33, lines 11-34).

As to claim 3, Goldstein and Seth-Smith disclose wherein the guide is controlled by a set top terminal (television receiver; see Goldstein at column 33, lines 11-33), and wherein the introductory menu automatically appears on the television screen when the set top terminal is turned on (see Goldstein at column 3, lines 11-16); and

the terminal further comprises:

means for generating a cursor highlight overlay to indicate the position of a cursor on at least one menu (see Goldstein at column 9, lines 24-43, column 34, lines 10-28);

means for moving the cursor highlight overlay in response to pressing of cursor movement buttons by a user (see Goldstein at column 9, lines 24-43, column 34, lines 10-28).

As to claim 4, Goldstein and Seth-Smith disclose wherein the introductory menu displays information or messages from a television delivery system operations center that provides programming (see Goldstein at column 33, lines 11-68).

As to claim 5, Goldstein and Seth-Smith disclose wherein the information or messages are directed to a particular subscriber (see Goldstein at column 20, lines 54-63).

As to claim 6, Goldstein and Seth-Smith disclose wherein the information or messages are directed to a group of subscribers (see Goldstein at column 20, lines 54-63).

As to claim 7, Goldstein and Seth-Smith disclose wherein the during program menus comprise hidden menus and program overlay menus (comprising overlaid icons and hidden embedded information; see Goldstein at column 14, lines 3-20).

7. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al. (Banker) (5,477,262) (of record) in view of Seth-Smith.

As to claim 22, while Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

- means for retrieving information about a subscriber (column 24, lines 19-39);
- means for receiving a television signal (column 10, line 61-column 11, line 22);
- means for extracting individual programs from the television signal (column 13, lines 49-59);
- means to demultiplex video, audio, graphics and text (304; column 11, lines 2-30);

means for generating an electronic program guide for controlling display of content on a television screen (column 11, lines 21-31), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45), wherein the menus are navigated using a user input (column 21, lines 34-43), and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (column 21, lines 34-43);

wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (menu with video background; column 12, line 48-column 13, line 13); and

means for receiving the selection signals from the user input (Figs. 3 and 4; column 16, lines 19-42), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio.

In an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

As to claim 23, while Banker discloses a method of generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the method comprising:

receiving a television signal from an operations center (column 10, line 61-column 11, line 22), the signal having a plurality of television programs (column 9, lines 1-12) and interactive features (column 8, lines 45-67 and column 9, lines 13-25);

extracting the individual programs from the television signal (column 13, lines 49-59);

demultiplexing video, audio, graphics and text (304; column 11, lines 2-30);

generating a plurality of menus, including:

generating a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27) each corresponding to a level of interactivity (Figs. 8, 10, 18 and 20; column 21, line 44-column 25, line 27);

generating a plurality of program menus having information related to the programs (Figs. 12 and 16A; column 21, line 44-column 25, line 27); and

generating a main menu having one or more main menu items for selection (top menu; Fig. 7A), the main menu items including an interactive menu item for accessing the interactive menus (Fig. 7 and 7A; column 21, lines 34-45) and a program menu item for accessing the program menus (Fig. 7 and 7A; column 21, lines 34-45);

displaying the main menu on the television screen (Fig. 7 and 7A; column 21, lines 34-45);

receiving from a user input device a selection of one of the menu items (column 21, lines 34-43); and

displaying the interactive or program menus associated with the selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (menu with video background; column 12, line 48-column 13, line 13), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio.

In an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television

Art Unit: 2623

signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

8. Claims 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker in view of Seth-Smith and Gibson (5,539,871) (of record).

As to claim 8, Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

means for receiving a television signal (column 10, line 61-column 11, line 22);



means for extracting individual programs from the television signal (column 13, lines 49-59);

means to demultiplex video, audio, graphics and text (304; column 11, lines 2-30);

means for generating an electronic program guide for controlling display of content on a television screen (column 11, lines 21-31), the guide comprising:

a plurality of menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), and wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (menu with video background; column 12, line 48-column 13, line 13);

an overlay menu that is displayed during the one of the programs (Figs. 7 and 7A; column 12, line 62-column 13, line 13 and column 21, lines 34-43), the overlay menu including interactive features (Fig. 7A); and

means for receiving selection signals from a user input (Figs. 3 and 4; column 16, lines 19-42).

While Banker discloses an overlay menu that is displayed in response to a signal received from the user input (column 19, line 59-column 20, line 5), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality

Art Unit: 2623

of audio choices for accessing the audio and a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that the interactive features are available for the program.

In an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

Additionally, in an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Seth-Smith's system to include a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that

Art Unit: 2623

the interactive features are available for the program, as taught by Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

As to claim 9, Banker, Seth-Smith and Gibson disclose wherein the overlay menu includes menu options for a plurality of interactive features (see Banker at Figs. 7 and 7A and Gibson at column 5, lines 38-54 and column 6, lines 52-56).

As to claim 10, Banker, Seth-Smith and Gibson disclose wherein the overlay menu further includes a menu option to return to the program without the interactive features (see Banker at Fig. 7A and Gibson at column 6, lines 57-60 and Fig. 6, steps 610, 612 and 616).

As to claim 11, Banker, Seth-Smith and Gibson disclose a cursor that indicates one of the menu options (see Banker at column 21, lines 34-43 and Gibson at column 6, lines 51-56, column 4, lines 27-35 and column 3, lines 36-39), wherein the cursor is controlled by the user input (see Banker at column 21, lines 34-43 and Gibson at column 4, lines 27-35 and column 3, lines 36-39).

As to claim 12, Banker, Seth-Smith and Gibson disclose wherein the interactive features include facts related to the program (see Gibson at column 4, line 65-column 5, line 5).

As to claim 13, Banker, Seth-Smith and Gibson disclose wherein the guide further comprises a plurality of interactive submenus for use with the interactive features (see Banker at Figs. 7 and 7A and column 21, lines 34-43), which submenus are displayed in response to a selection of the menu items (see Banker at column 21, lines 34-43), the selection being received as at least one of the selection signals from the user input (see Banker at column 21, lines 34-43).

As to claim 14, while Banker, Seth-Smith and Gibson discloses displaying a plurality of submenus (see Banker at Fig. 7A), they fail to specifically disclose wherein the submenus are displayed in a video window in a scaled down program video format.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to simultaneously display a reduced version of a menu with a plurality of selections on the same display as video programming, wherein the menu and video programming are each scaled to cover a smaller portion of the overall display to allow both to be fully displayed to the user at the same time, for the typical benefit of allowing a viewer to continue fully viewing a television program while navigating a menu and not miss any of the displayed video program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Seth-Smith and Gibson's system to include wherein the submenus are displayed in a video window in a scaled down program video

Art Unit: 2623

format for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

As to claim 15, Banker, Seth-Smith and Gibson wherein the program and one or more of the submenus are displayed on the television at the same time (see Banker at column 12, line 63-column 13, line 13).

As to claim 16, Banker, Seth-Smith and Gibson wherein the logo is displayed as an overlay menu (overlaid button to select; see Gibson at column 4, lines 7-36).

As to claim 17, Banker, Seth-Smith and Gibson wherein the logo is displayed by the set top terminal (see Banker at Fig. 3; column 12, lines 42-61), and wherein the set top terminal determines whether there is data or information about the program to be displayed as the one or more interactive features (see Gibson at column 5, lines 38-54) and displays the logo if there is data or information (see Gibson at column 6, lines 1-10).

As to claim 18, Banker, Seth-Smith and Gibson disclose wherein the set top terminal (see claim 17) generates an overlay menu including the logo (see Gibson at column 3, line 65-column 4, line 35 and column 6, lines 1-24).

As to claim 19, while Banker, Seth-Smith and Gibson disclose generating the overlay menu utilizing a set top converter (see Banker at column 12, lines 42-61), they fail to specifically disclose using data received during a vertical blanking interval.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize data from a vertical blanking interval, as receiving data during a vertical blanking interval at a set top terminal allows a cable headend or other programming provider to download additional data and information to a user's system, such as interactive information or data updates, for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Seth-Smith and Gibson's system to include using data received during a vertical blanking interval for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

As to claim 20, Banker, Seth-Smith and Gibson disclose wherein the logo is displayed in a corner of the screen of the television periodically for a specified duration (see Gibson at Fig. 3B, Fig. 4, step 408; column 5, lines 6-20).

As to claim 21, while Banker, Seth-Smith and Gibson disclose wherein the logo is displayed for a particular period of time (pertaining to periods of time an object is on the

Art Unit: 2623

display; see Gibson at column 6, lines 10-18 and column 4, lines 7-26 and lines 45-54), they fail to specifically disclose displaying the logo for 15 seconds during a plurality of ten-minute segments of the program.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to display specific objects in a media presentation for at least 15 seconds during a plurality of ten-minutes segments of the program, such as the main character or object in a television program or movie, for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Seth-Smith and Gibson's system to include displaying the logo for 15 seconds during a plurality of ten-minute segments of the program for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

9. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker and Seth-Smith, as applied to claim 23 above, and further in view of Gibson.

As to claim 24, while Banker and Seth-Smith disclose displaying one of the programs on the screen, they fail to specifically disclose displaying during the program a logo indicating that interactive features are associated with the program.



Art Unit: 2623

In an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Seth-Smith's system to include displaying during the program a logo indicating that interactive features are associated with the program, as taught by Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

Art Unit: 2623

As to claim 25, Banker, Seth-Smith and Gibson disclose receiving from the user input device a signal associated with the logo (see Gibson at column 4, lines 7-36 and column 6, lines 5-10); and

displaying, in response to the signal, an overlay menu of the interactive features (see Gibson at column 6, lines 51-57).

### ***Conclusion***

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Typed or printed name of person signing this certificate:

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Art Unit: 2623

### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
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\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda  
Patent Examiner  
Art Unit 2623

JS

  
SCOTT E. BELIVEAU  
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